

### **REMARKS/ARGUMENTS**

The action by the Examiner of this application, together with the cited references, has been given careful consideration. Following such consideration, claim 1 has been amended to define more clearly the patentable invention applicants believe is disclosed herein. Moreover, claim 14 has been cancelled. Claims 6-13 were previously cancelled and claims 2-5 are unchanged by the present amendment paper. The present amendments to the claims have been made to put the application in condition for allowance, and do not raise new issues for consideration by the Examiner. It is respectfully requested that the Examiner reconsider the claims in their present form, together with the following comments, and allow the application.

The Examiner has rejected claim 14 under 35 U.S.C. 101, arguing that the claimed invention is directed to non-statutory subject matter. The Examiner has also rejected claim 14 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. Claim 14 has now been cancelled. Accordingly, it is respectfully requested that the Examiner withdraw the rejections of claim 14.

Claims 1-5 have also been rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The Examiner has noted that in accordance with the present invention, "the tracking client sends a message to add an operator to operate the device and that message includes the operator's name and code." In view of the Examiner's comments, claim 1 has been amended to clearly identify that "one of said instrument tracking clients is programmed to transmit an operator identifier for identifying an operator of the antimicrobial device identified by the device identifier." In view of the amendments to claim 1, it is respectfully submitted that claims 1-5 are in compliance with the requirements of 35 U.S.C. 112, first paragraph. Accordingly, it is respectfully requested that the Examiner withdraw this rejection of claims 1-5.

The Examiner has also objected to the specification under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. In light of the amendments made to claim 1 discussed above in connection with the 35 U.S.C. 112, first paragraph rejection, it is respectfully submitted that the objection to the specification has been addressed by the present amendment.

Accordingly, it is respectfully requested that the Examiner withdraw the objection to the specification under 35 U.S.C. 132(a).

The Examiner has rejected claims 1-2 and 4-5 as being obvious in view of U.S. Patent Application Publication No. 2005/0137653 to Friedman et al.; U.S. Patent No. 5,696,896 to Sanaka et al.; and U.S. Patent No. 6,238,623 to Amhof et al. Claim 3 has been rejected as being obvious in view of the combined teachings of Friedman et al.; Sanaka et al.; Amhof et al.; and U.S. Patent No. 6,314, 415 to Mukherjee.

The Examiner acknowledges that the Friedman et al. reference combined with the Sanaka et al. reference does not disclose "the intended use/function of the client to assign an operator identifier for identifying an operator of the antimicrobial device identified by the device identifier." The Examiner argues that Friedman et al.'s "client" in FIG. 1 is capable of implementing this function. However, the Examiner relies upon Amhof et al. for teaching the assignment of an operator identifier for identifying an operator of the antimicrobial device identified by the device identifier.

With respect to the teachings of Amhof et al., the Examiner specifically refers to column 5, lines 11-25. Amhof et al. discloses a label 10 comprised of first and second portions 26, 28 constructed to be manually separable from each other. Perforations 35 are situated between first and second portions 26, 28. Label 10 is used in a sterilization tracking system, and is securely adhered to the packaging of the goods to be sterilized. It is noted by Amhof et al. that indicia and/or information provided by an indicating composition or indicating ink may be provided onto first and second portions 26, 28 by printing, stamping, dipping, manual writing or by automated means such as a computer printer.

It is respectfully submitted that Amhof et al. fail to teach or suggest an instrument tracking client that is programmed to transmit an operator identifier for identifying an operator of an antimicrobial device identified by a device identifier, as required by claim 1. The applicant's claimed invention defines an instrument tracking client, whereas Amhof et al. merely discloses a media that is suitable for printing.

The Examiner has also cited U.S. Patent Application Publication No. US2005/0074833 to Gillis et al. for suggesting the entry of an operator's name while running a sterilization cycle. However, Gillis et al. discloses a print record 82 that may include language

identifying the health institute or other facility, in the name of the analyzer operator. Similar to Amhof et al., a printed document is generated in Gillis et al. Accordingly, Gillis et al. fails to teach or suggest the claimed instrument tracking client that is programmed to transmit an operator identifier for identifying an operator of the antimicrobial device identified by a device identifier.

It should be further noted that in the present application the claimed "communication server" interface is programmed to receive data from the instrument tracking client that includes the *operator identifier* and transmits the data from the communication server to an antimicrobial treatment device.

The Examiner has noted in the Office Action that "claims 1-2, 4-5 [and] 14 are apparatus/system claims. Claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function...." The Examiner concludes that "the functional limitations of the claims do not distinguish the claimed apparatus from the prior art." The applicant respectfully disagrees with the Examiner's position with respect to the claimed instrument tracking client and communication sever interface. In this regard, both apparatus are programmable devices comprising an information management system. The functions associated with the programming of the instrument tracking client and communication server interface should be given weight in the claims since they define the programmed apparatus. It is respectfully submitted that the claim limitations which define the programmed operations of the instrument tracking client and communication server interface distinguish the claimed apparatus from the prior art, as discussed in detail above.

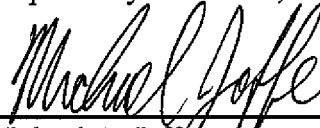
Claims 2-5 depend from claim 1. Accordingly, it is respectfully submitted that independent claim 1, as well as dependent claims 2-5 are patentable over the cited references for at least the reasons set forth above.

In view of the foregoing, it is respectfully submitted that the present application is now in proper condition for allowance. If the Examiner believes there are any further matters that need to be discussed in order to expedite the prosecution of the present application, the Examiner is invited to contact the undersigned.

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If there are any fees necessitated by the foregoing communication, please charge such fees to our Deposit Account No. 50-0537, referencing our Docket No. ST8774US.

Respectfully submitted,



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